



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-583-841

Polyvinyl Alcohol from Taiwan: Notice of Court Decision Not in Harmony with Final Determination of Sales at Less Than Fair Value and Revocation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On December 18, 2013, the United States Court of International Trade (the Court or CIT) sustained the Department of Commerce's (the Department) final results of the remand redetermination relating to the less than fair value investigation of polyvinyl alcohol (PVA) from Taiwan, in *Chang Chun Petrochemical Co. Ltd. v. United States*, Court No. 11-00095, Slip. Op. 13-151 (CIT 2013). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department's *Final Determination* and is amending its *Final Determination* in the investigation of PVA from Taiwan covering the period of investigation (POI) of July 1, 2003, through June 30, 2004, with respect to the weighted-average dumping margin assigned to Chang Chun Petrochemical Co. Ltd. (CCPC).¹

DATES: Effective December 30, 2013.²

¹ See *Polyvinyl Alcohol from Taiwan: Final Determination of Sales at Less Than Fair Value*, 76 FR 5562 (February 1, 2011) (*Final Determination*).

² December 28, 2013, ten days after the Court's opinion was issued, falls on a Saturday. Therefore, the effective date is Monday, December 30, 2013. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

FOR FURTHER INFORMATION CONTACT: Sandra Dreisonstok, Office I, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0768.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2011, the Department published the *Final Determination*.³ On March 15, 2011, the Department published the antidumping duty order on PVA from Taiwan in the *Federal Register*.⁴ Following a challenge by respondent CCPC, the CIT remanded the *Final Determination* to the Department for further consideration on April 10, 2013.⁵ The CIT sustained the Department's remand redetermination in which the Department found that the only mandatory respondent did not make sales at less than fair value in *Chang Chun Petrochemical Co. Ltd. v. United States*, Court No. 11-00095, Slip. Op. 13-151 (CIT 2013).

Because there is now a final court decision in this case, the Department is amending its *Final Determination* with respect to CCPC's weighted-average dumping margin for the POI. The revised weighted-average dumping margin for CCPC is 0.00 percent.

Revocation of the Order

Pursuant to the Court of Appeals for the Federal Circuit's (Federal Circuit's) decision in *Diamond Sawblades* and the CIT's decision affirming the Department's remand redetermination, the Department is revoking the antidumping duty order on PVA from Taiwan because the revised weighted-average dumping margin for CCPC, the only mandatory respondent in the investigation, is

³ See *Final Determination*.

⁴ See *Antidumping Duty Order: Polyvinyl Alcohol From Taiwan*, 76 FR 13982 (March 15, 2011) (*Order*).

⁵ *Chang Chun Petrochemical Co. Ltd. v. United States*, Consol. Court No 11-00095, Slip Op. 13-49 (Apr. 10, 2013).

now zero. As a result of this revocation, the Department will not initiate any new administrative reviews of this *Order*.⁶

Notification to Interested Parties

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, the Federal Circuit held that, pursuant to section 516A(c)(1) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s December 18, 2013, judgment in this case sustaining the Department’s *Remand Redetermination* constitutes a final decision of that court that is not in harmony with the Department’s *Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

Accordingly, the Department intends to issue instructions to U.S. Customs and Border Protection to suspend liquidation of all unliquidated entries of subject merchandise from Taiwan which are entered, or withdrawn from warehouse, for consumption on or after December 30, 2013. The company-specific cash deposit rate will be zero percent. Pursuant to *Timken*, *Diamond Sawblades*, and *Hosiden Corporation v. United States*, 861 F. Supp. 115 (Fed. Cir. 1994), the suspension of liquidation on all entries of PVA from Taiwan entered, or withdrawn from

⁶ Currently there are no unfinished or ongoing administrative reviews of this order.

warehouse, for consumption on or after December 30, 2013, that remain unliquidated will continue until there is a “final and conclusive” court decision.

This notice is issued and published in accordance with sections 516A(e)(1) of the Act.

Dated: January 17, 2014.

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

[FR Doc. 2014-01574 Filed 01/27/2014 at 8:45 am; Publication Date: 01/28/2014]